

2013 Fiscal Year Annual Report



MISSOURI SMALL BUSINESS REGULATORY FAIRNESS BOARD

Respectfully Submitted
Representative Vicki Englund
Chairperson

Board Members:

Representative Vicki Englund – Chair
Former Small Business Owner
St. Louis

Jim Seigfried – Vice Chair
Retired Small Business Owner
Warrensburg

William Jenks
Jenks/Long Insurance
Rolla

Megan Bittle
RSI Kitchen & Bath
St. Louis

Scott George
Mid-America Dental & Hearing Center
Mt. Vernon

Nancy Zurbuchen
Motional Multimedia
Kansas City

Sheila Forrest
Afro World Hair and Fashion Company
Minority Business Advocacy Commission Chair
St. Louis

Background

The Missouri Small Business Regulatory Fairness Board (SBRFB) was established by the Missouri General Assembly under HB 576 and SB 456; and, patterned after the United States Small Business Administration, Office of Advocacy, and National Ombudsman which serve as voices for small businesses in the Federal Government.

The legislation is comprised of several key elements: 1) State agencies take into account small businesses when promulgating new rules; 2) State agencies take into account small businesses when enforcing new rules and regulations; 3) State Agencies take into account small businesses when reviewing existing rules to see if they are still needed; 4) Established the Small Business Regulatory Fairness Board; 5) Granted judicial review to small businesses; and 6) Defined small businesses as a for-profit enterprise with 100 or fewer full-time or part-time employees.

The Missouri Department of Economic Development, in accordance with HB 576 and SB 456, provides staffing and support for the Commission.

Board Responsibilities

RSMo, 536 states three main responsibilities for the board:

- 1) Provide state agencies with input regarding rules that adversely affect small businesses;
- 2) Solicit input and conduct hearings from small business owners and state agencies regarding any rules proposed by a state agency; and
- 3) Provide an evaluation report to the Governor and the general assembly, including any recommendations and evaluations of state agencies regarding regulatory fairness for Missouri's small businesses. The report shall include comments from small businesses, state agency responses, and a summary of any public testimony on rules brought before the board for consideration.

Meetings

Two meetings were held in Fiscal Year 2013 by the Board as follows:

September 12, 2012 – Jefferson City
SBRFB Meeting

April 24, 2013 – Jefferson City
SBRFB Meeting

FY2013 Small Business Comments

Karen Werner

Karen Werner, owner and operator of two Child Care Centers in Jefferson City, contacted SBRFB because she believed the Department of Health and Senior Services (DHSS) was unfairly requiring child care providers to use an electronic tracking system.

SBRFB Response: The SBRFB contacted the liaison from DHSS requesting they provide more information to Ms. Werner and the SBRFB.

State Agency Response: DHSS responded to SBRFB and Ms. Werner that while they have implemented an electronic means to document training received by child care providers called the Missouri Professional Development ID system (MOPD ID) participation is not mandatory.

Periodic Rule Review Process

The General Assembly has instituted a five-year rolling review of existing rules that will begin July 1, 2015, as set forth in §536.175 RSMo. This review process takes the place of the biennial report that was previously required of the agencies regarding rules affecting small business.

Agencies will begin their review of rules on the following schedule:

Titles	Begin Review by	Complete Review by
1-6	July 1, 2015	June 30, 2016
7-10	July 1, 2016	June 30, 2017
11-14	July 1, 2017	June 30, 2018
15-19	July 1, 2018	June 30, 2019
20-end	July 1, 2019	June 30, 2020

The Joint Committee on Administrative Rules will publish a notification in the *Missouri Register*, regarding what titles are under review, a notice that comments may be submitted to the agency concerning rules under review within 60 days of publication, requirements for comments, and agency contact information. Agencies are required to provide the Joint Committee on Administrative Rules with contact information for agency designees assigned to receive comments.

The agency will prepare a report containing the results of the review which will include: whether the rule continues to be necessary, whether the rule is obsolete, whether the rule overlaps, duplicates or conflicts with other rules, whether a less restrictive or more narrowly tailored rule is appropriate, whether the rule needs amendment or rescission, whether incorporated by reference materials are proper, and whether rules affecting small business are still relevant. The report will also contain an appendix with the nature of the comments the department has received on the rules and the agency responses to comments.

The report must be filed with the Joint Committee on Administrative Rules and The Small Business Fairness and Regulatory Board by the following June 30th. Any rule not included in the report may become null and void. However, an extensive process including multiple opportunities to correct the deficiency, are in place before nullification of the rule. Such opportunities include the ability of the agency to request an extension from the Joint Committee on Administrative Rules as well as notification to the agency and opportunity to correct the delinquency.

State Agency Evaluations

In fulfilling its duties outlined in 536.310 RSMo, the Board shall provide an evaluation report to the governor and the general assembly. The SBRFB is charged with tracking and providing results of agency compliance with SBRFB efforts. Agencies working with the SBRFB will ultimately result in higher compliance and fewer complaints from small business owners. Providing feedback to the agencies is of prime importance, as is agency cooperation and communication back to the board. The SBRFB has created criteria and ongoing training for the agencies so that they have a clear understanding of what the board is looking for. The criteria used in making evaluations are listed at the top of each column in the following table.

SBRFB Agency Evaluations 2013 Fiscal Year

In general, we have built a good working relationship with the state agencies, as can be observed by the evaluations. As we progress, the criteria need to be updated in keeping with the work of the Board as well as the agencies. We will continue to provide ongoing communication to the agencies regarding expectations, criteria, and training. The evaluation criteria for FY2013 are as follows:

Column B: 'Respond to Small Business Comments in a Timely Manner'. The agency has 60 days to respond to an initial comment.

Column C: 'Provide Complete Response to Small Business Comments' to evaluate the quality of content in the initial agency response.

Column D: 'Participate in Regulatory Fairness Meetings' refers to meeting attendance and participation by the agency liaison.

Column E: 'Participate in Regulatory Fairness Public Hearings' refers to the agency providing decision-makers and knowledgeable personnel to answer questions brought in front of the Board at the public hearings.

Column F: 'Train agency staff on SBRFB Programs,' evaluates agency effectiveness in training agency personnel on SBRFB.

Column G: 'Agency Responsiveness to SBRFB Requests' includes not only timeliness of the ongoing letters, but also the quality of content (e.g., did it answer the questions.) This refers to the subsequent letters that frequently occur back and forth as the Board works through an issue. The agency has 30 days to respond to each request. ('Adherence to Non-Retaliation Policy' to monitor the rare, but disturbing, accusations of agency retaliation against a small business owner before or after their small business comments/issues are brought before the SBRFB.)

Column H: 'Complete Small Business Impact Statement' evaluates agency on both the existence and quality of content in a SBIS when small businesses are impacted by a rules change.

Column J: 'Notify SBRFB of Small Business Comments from Public Hearings' --The Board intends to more closely monitor whether the agency notifies the SBRFB of small business comments that come directly to the agency from the public and therefore do not otherwise come in front of the Board.

**SBRFB Agency Evaluations
2013 Fiscal Year**

A	B	C	D	E	F	G	H	J
STATE AGENCY	RESPOND TO SMALL BUSINESS COMMENTS IN TIMELY MANNER	PROVIDE COMPLETE RESPONSE TO SMALL BUSINESS COMMENTS	PARTICIPATE IN REGULATORY FAIRNESS MEETINGS	PARTICIPATE IN REGULATORY FAIRNESS PUBLIC HEARINGS	TRAIN AGENCY STAFF ON SBRFB PROGRAMS	AGENCY RESPONSIVENESS TO SBRFB REQUESTS	COMPLETE SMALL BUSINESS IMPACT STATEMENT	NOTIFY SBRFB ON SMALL BUSINESS COMMENTS IN PUBLIC HEARINGS
Office of Administrations	N/A	N/A	Yes	N/A	No	N/A	N/A	N/A
Agriculture	N/A	N/A	Yes	N/A	Yes	N/A	Yes	N/A
Conservation	N/A	N/A	Yes	N/A	Yes	N/A	N/A	N/A
Corrections	N/A	N/A	Yes	N/A	No	N/A	N/A	N/A
Economic Development	N/A	N/A	Yes	N/A	Yes	N/A	Yes	N/A
Public Service Commission	N/A	N/A	Yes	N/A	Yes	N/A	Yes	N/A
Elementary & Secondary Education	N/A	N/A	Yes	N/A	Yes	N/A	N/A	N/A
Missouri Assistive Technology	N/A	N/A	Yes	N/A	No	N/A	N/A	N/A
Higher Education	N/A	N/A	Yes	N/A		N/A	N/A	N/A
Health & Senior Services	Yes	Yes	Yes	N/A	Yes	Yes	Yes	N/A
Insurance, Financial Institutions & Professional Registration	N/A	N/A	Yes	N/A	Yes	N/A	Yes	N/A
Labor & Industrial Relations	N/A	N/A	Yes	N/A	Yes	N/A	N/A	N/A
Mental Health	N/A	N/A	Yes	N/A		N/A	N/A	N/A
Natural Resources	N/A	N/A	Yes	N/A	Yes	N/A	Yes	Yes
Public Safety	N/A	N/A	Yes	N/A	Yes	N/A	N/A	N/A
Revenue	N/A	N/A	Yes	N/A	Yes	N/A	Yes	N/A
Social Services	N/A	N/A	Yes	N/A		N/A	Yes	N/A
Transportation	N/A	N/A	Yes	N/A	Yes	N/A	Yes	N/A